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Human rights situations that require the Council's attention

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Bahrain: Trial violations of opposition leader Sheikh Ali Salman on charges of spying for Qatar because of an initiative of the United States of America*

The Bahraini authorities announced on 11/27/2017 the start of the trial of Bahraini opposition leader Sheikh Ali Salman, head of Al-Wefaq, the biggest parliamentary bloc (2006), on charges of spying for Qatar. The trial is based on malicious charges targeting freedom of political action and freedom of expression, and continues the steps toward closing down the democratic space in the country, which is witnessing a serious human rights crisis. The details of the case are as follows:

The accused:
1- Sheikh Ali Salman Ahmed Salman (Secretary General of Al-Wefaq National Islamic Society)
2- Sheikh Hassan Ali Jumua Sultan (former MP of the Al-Wefaq parliamentary bloc)
3- Ali Mahdi Ali Al-Aswad (former MP of the Al-Wefaq parliamentary bloc)
The charges brought by the Public Prosecution against the accused according to the lawsuit are the following:
1. Spying for Qatar.
2. Disclosing military secrets to Qatar.
3. Spreading false news that harms public security.
4. Accepting and receiving bribes and gifts from Qatar.
The penalty can be death or life sentence, according to articles 122, 125, and 126 of the Bahraini Penal Code, in addition to other articles that fall within the legal adaptation of the case.

Case Background

These accusations are based on the 2011 Saudi-US-Qatari initiative. Former Qatari Prime Minister, Sheikh Hamad bin Jassim, received a call from former Saudi Foreign Minister, Prince Saud al-Faisal, asking him to go to Bahrain to accompany him along with former US Assistant Secretary of State, Jeffrey Feltman, to work on resolving the crisis. After that, all the parties to the initiative arrived to Bahrain and met with the King. The American and the Qatari parties of the initiative contacted opposition leader Sheikh Ali Salman in the process of resolving the crisis, and Sheikh Ali Salman met with former US Assistant Secretary of State, Jeffrey Feltman. However, Sheikh Ali Salman did not meet with former Qatari Prime Minister, Sheikh Hamad bin Jassim, instead, he called him to talk about the initiative. That call was in March 2011 and revolved around discussing the initiative and asking for solutions to the crisis. These calls took place with the approval of the King of Bahrain. However, after the gulf crisis with Qatar occurred, the Bahraini authorities deliberately broadcasted trimmed audio recordings of the call, distorting it content. Also, the media played a provocative role, which breaches the presumption of innocence. Sheikh Ali Salman was accused of the previously mentioned charges; in addition, the right to a public trial was violated.
On November 23, 2011, the Bahrain Independent Commission of inquiry, chaired by Professor Mahmoud Cherif Bassiouni, confirmed in its report that there were a Qatari initiative to resolve the crisis in March 2011 before the attack on the Pearl Roundabout. On November 27, 2011, Bahrain's Foreign Minister praised Qatar's support for the official stance of Bahrain in a television interview on Al Arabiya channel.
Sequence of Hearings:
First Hearing:
On November 27, 2017, the first hearing was held in the presence of the defense, but Sheikh Ali Salman was not present due to illness and back pain. The hearing was postponed to two days later.
Second Hearing:
On November 29, 2017, the second hearing was held in the presence of the defense and Sheikh Ali Salman, who was dressed in the prison uniform. The defense asked the court to allow Sheikh Salman to have a copy of the case file inside his prison cell with papers and pens and give him a period of time to study it. The hearing was adjourned to December 28, 2017.
Third Hearing:

On December 28, 2017, the hearing was held in the presence of the defense and Sheikh Ali Salman. The defense renewed its request to allow Sheikh Ali Salman to receive the case file, and also requested to summon the prosecution witnesses whose testimonies are stated in the case file. The court ordered to hand over Sheikh Ali Salman a complete copy of the case file and CDs and to provide him with the "necessary" tools to examine them, after the defense requested, during the hearing, to provide him with a laptop so that he could see the contents of the CDs. The hearing was postponed to January 4, 2018.

Fourth Hearing:

On January 4, 2018, the fourth hearing was held in the presence of the defense and Sheikh Ali Salman. The hearing was designated for hearing and questioning two prosecution witnesses, the first witness, Officer Abdullah Al-Arabi, and the fourth witness, Abdullah Al-Howaihi. The defense team submitted written questions for the second and third witnesses, who will be questioned by the court in a secret hearing without the presence of the lawyers or Sheikh Ali Salman. The hearing was postponed to January 25, 2018.

Fifth Hearing:

On January 25, 2018, the fifth hearing was held in the presence of the defense and Sheikh Ali Salman. The court presented a phone conversation that has been cut. Sheikh Ali Salman said that the call was trimmed and demanded that the sound recordings be shown in full because cutting them lead to distorting their content. From the hearing proceedings, it was revealed that the Ministry of Interior acquired 45 sheets that Sheikh Ali Salman sent from his prison to his lawyer, but the Ministry of Interior did not hand them over to the defense. Note that the Ministry of Interior is a party to this case. Afterwards, the Fourth High Criminal Court decided to postpone the hearing to February 19, 2018 in order to bring the recordings of the phone call between Sheikh Ali Salman and the former Prime Minister of Qatar.

General Notes

The charges in the case were not based on proper material evidence, and the evidence was falsified by cutting and forgery even in the papers. The witnesses who were used by the prosecution are directed by parties related to the authorities. Nevertheless, their testimonies were based on assumption and surmise, which makes all their testimonies judicially unreliable. However, since the whole case is related to freedom of expression and freedom of political action, the judiciary is bias to the prosecution and the security apparatus, as happened in the previous case, in which Sheikh Ali Salman was convicted.

Moreover, the judicial authority intentionally referred the case to the same court and judge that sentenced Sheikh Ali Salman in the previous case to 9 years in prison (and then they were amended to four years). In addition, the prosecutor is also the same one who handled the previous case, even though the previous case was widely criticized by UN experts, international human rights organizations and the Office of the High Commissioner for Human Rights.

Based on the abovementioned, we call for the following:

1. The Member States of the Human Rights Council to urge Bahrain to cancel the trial of Sheikh Ali Salman and repeal his conviction in a previous case that was criticized by the international human rights community, and especially United Nations experts, who considered his detention to be arbitrary, and immediately release him.
2. The Member States of the Human Rights Council to urge Bahrain to respect freedom of expression and association and to stop prosecutions of political institutions and opposition leaders for political and malicious reasons.
3. The Member States of the Human Rights Council to urge Bahrain to allow UN rapporteurs to visit Bahrain, including the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the independence of judges and lawyers.
4. The Member States of the Human Rights Council to urge Bahrain to allow the High Commissioner to visit Bahrain without restriction, to open an office with full powers and to stop retaliatory procedures against human rights defenders.

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*Bahrain Forum for Human Rights (BFHR), an NGO without consultative status, also shares the views expressed in this statement.